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EXAMINER

BARQADLE, YASIN M

ART UNIT PAPER NUMBER

2153

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,846

Applicant(s)

PELED ET AL.

Examiner

Yasin M. Barqadle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-144 is/are pending in the application.
- 4a) Of the above claim(s) 4-6, 32, 34, 57-59, 99 and 100 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-31, 33, 35-56, 60-98 and 101-144 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Amendment

1. The amendment filed on April 28, 2005 has been fully considered but are moot in view of the new ground(s) of rejection.
2. Claims 4-6, 32, 34, 57-59, and 99-100 have been canceled.
3. Claims 1-3, 7-31, 33, 35-56, 60-98 and 101-144 presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 recites the limitation "said client network node" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-3, 7-30, 42-45, 49-51, 55-56, 60-78, 86-89, 92-98, 101-124, and 138-141, 143-144 are rejected under 35 U.S.C. 102(e) as being anticipated by Parekh et al USPN (6757740).

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As per claims 1, 55 and 96, Parekh et al teach the invention for determining a location of a user client (fig. 13, 5) in an electronic interaction with a server (server 62) over a network having a plurality of nodes at different locations (fig. 6 and abstract), the apparatus comprising :

a network node data gatherer for obtaining from the vicinity of said user client network node information [system 10, fig. 1 collects geographic information of an Internet user by using programs such as host, nslookup, ping, traceroute, and whois col. 4, lines 35-67 and col. 15, lines 39-64], and
a network node data correlator for correlating said network node information with a network node location map, thereby to provide said server with a location for said user client (the collected information is stored in a database for analysis to determine the geographic location of a target host col. 10, lines 1-33; col. 11, lines 32-66 and col. 15, lines 39-64), where in said network node location map is a map of said network and said client network node information an identification of an Internet gateway used by said user client, and said identification of said Internet gateway is an IP address of said gateway (see col. 7, lines 30-65 for the gateway 130.207.244.1 of the host 130.207.47.1), and said network node data gatherer comprises a request inducer unit for causing said user client to request a

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connectible entity from the server, and wherein said network node data gatherer is operable to intercept network node data from said Internet gateway following said request [user's browser is induced/directed to access a web page on the web server col. 13, lines 17-62 and col. 16, lines 16-65].

Parekh et al further teaches where the identification of the internet gateway is a DNS of said gateway col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24).

As per claims 2 and 97, Parekh et al teach the invention, further comprising a digital media distributor associated with said network data correlator and operable to use said location to govern digital media distribution to said user client [col.14, lines 12-26].

As per claims 3, 56 and 98, Parekh et al teach the invention, further comprising a location confirmation unit for separately determining that said location provided by said client network node information is part of a current communication path to said user client [col. 7, lines 24 to col. 8, line 63].

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As per claims 7, 101 and 143-144, Parekh et al teach the invention, wherein said connectible entity is a loadable entity [col. 13, lines 34-62].

As per claims 8, Parekh et al teach the invention, wherein said loadable entity is web browser loadable entity [col. 13, lines 34-62].

As per claims 9, 60 and 102, Parekh et al teach the invention, further comprising a host name assigner for assigning a host name to said connectible entity for each user client request, thereby to cause said Internet gateway to reveal its identity whilst attempting to locate said hostname [col. 7, lines 24 to col. 8, line 63 and col. 13, lines 6-62. see also col. 14, lines 1-12].

As per claims 10, 61 and 103, Parekh et al teach the invention, wherein said host name is a unique host name for each user client request [user client hostnames are inherently unique in IP networks col. 1, lines 29-34 and col. 7, lines 24 to col. 8, line 63).

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As per claims 11, 62 and 104, Parekh et al teach the invention, said server comprising a master DNS, said master DNS being operable to give out to said user client an IP address upon requesting by said user client [col. 1, lines 45-59 and col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24].

As per claims 12, 63 and 105, Parekh et al teach the invention, said server further comprising at least one second DNS [col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24. see also col. 9, lines 24-36].

As per claims 13, 64, 65 and 106, Parekh et al teach Apparatus according to claim 9, wherein said connectible entity is assignable a unique host name for each transaction request [col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24. see also col. 9, lines 24-36].

As per claims 14, 66 and 107, Parekh et al teach the invention, wherein said loadable entity is a web page [col. 13, lines 34-62].

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As per claims 15, 69 and 108, Parekh et al teach the invention, wherein said loadable entity is a web page component [col. 13, lines 34-62].

As per claims 16, 67 and 109, Parekh et al teach the invention, wherein said loadable entity is an image [col. 14, lines 10-26 and col. 16, lines 16-65].

As per claims 17, 68 and 110-111, Parekh et al teach the invention, wherein said loadable entity is an executable module [col. 13, lines 6-62]

As per claims 18, 58, 70 and 112, Parekh et al teach the invention, wherein said correlator is operable to correlate a received ISP DNS with a user client request using said host name [col. 10, lines 1-33; col. 11, lines 32-66 and col. 15, lines 39-64 and col. 6, lines 39 to col.7, line 24].

As per claims 19, 71 and 113, Parekh et al teach the invention, wherein said map comprises physical location data of network nodes [col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24).

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As per claims 20, 72 and 114, Parekh et al teach the invention, wherein said map comprises topological location data of network nodes [col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24. col. 8, lines 23-63).

As per claims 21, 73 and 115, Parekh et al teach the invention, further comprising a service level controller for selecting service criteria to be provided to said user client based on said physical location [col. 15, line 43 to col. 16, line 21].

As per claims 22, 74 and 116, Parekh et al teach the invention, operable to log a physical location related to a sale [col. 16, lines 16-65].

As per claims 23, 75 and 117, Parekh et al teach the invention, operable to associate alarms with predetermined physical locations [col. 16, lines 16-65].

As per claims 24 and 118, Parekh et al teach the invention, arranged to access a geographically arranged database, thereby to associate service predetermined physical locations [col. 16, lines 16-65].

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As per claims 25 and 119, Parekh et al teach the invention, arranged to access a geographically arrange database, thereby to associate 3s and service criteria with predetermined physical locations [col. 14, lines 1-26 and col. 3, lines 44-49].

As per claims 26, 76 and 120, Parekh et al teach the invention, wherein said service criteria comprises criteria to conform with location-based legal restrictions [col. 14, lines 1-26 and col. 3, lines 44-49].

As per claims 27 and 121, Parekh et al teach the invention, wherein said service criteria comprise criteria to conform to location-based contractual restrictions [col. 14, lines 1-26 and col. 3, lines 44-49].

As per claims 28 and 122, Parekh et al teach the invention, wherein said service criteria comprise criteria to conform to location-based commercial restrictions [col. 3, lines 32-49 and col. 14, lines 1-26].

As per claims 29, 77 and 123, Parekh et al teach the invention, further comprising a service level controller for selecting service criteria to be provided to said user client based on

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said topological location [col. 3, lines 32-49 and col. 14, lines 1-26].

As per claims 30, 78 and 124, Parekh et al teach the invention, further comprising a routing controller for controlling routing to said user client based on said topological location [col. 3, lines 32-49 and col. 5, lines 18-58].

As per claims 42 and 86, Parekh et al teach the invention, further comprising:

trace routing functionality for determining a network node distance and route of a user client by sending and attempting to receive response messages having varied time to live values [see ping and traceroute results in col. 6 and 7; col. 17, lines 47-58].

As per claims 43, 87 and 139, Parekh et al teach the invention, further comprising:

combining functionality for combining trace routing from several locations to the user in order to enhance accuracy (col. 7, lines 24 to col. 8, line 63 and col. 15, lines 39-64].

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As per claims 44, Parekh et al teach the invention further comprising:

a correlator for correlating between said determined location and said determined network node distance and route [see ping and traceroute results in col. 6 and 7 ;col. 10, lines 1-30 and col. 15, lines 39-64].

As per claims 45 and 88, Parekh et al teach the invention, wherein said network node data gatherer comprises a connectible entity for carrying out trace routing to said server from said user client and sending results of said trace routing to said server [see ping and traceroute results in col. 6 and 7 ;col. 5, lines 18-41 and col. 6, lines 39 to col.7, line 24].

As per claims 46 and 89, these claims include similar limitations as claim 1 and 55. Therefore, it is rejected with the same rationale. Further, Parekh et al teach a network node data gatherer comprising a software agent (program) locatable at a network access node (col. 13, lines 23-62 and col. 15, lines 61 to col. 16, line 28).

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As per claims 47 90 and 141, Parekh et al teach the invention, wherein said network access node is a digital network access node [see fig. 1 and 6].

As per claims 48, and 91, Parekh et al teach the invention where the digital network access node being a digital line access multiplexer [dial-up modem pool is used for accessing the Internet col. 6, lines 29-33].

As per claims 49 and 92, Parekh et al teach the invention said network node being an Internet service provider comprising a plurality of servers and said network node data gatherer comprising functionality to determine additional information of said user client from an individual one of said plurality of servers with which it connects [fig. 8 and 13, col. 5, lines 18-41].

As per claims 50 and 93, Parekh et al teach the invention, said network node data gatherer being operable to obtain said additional information by correlating with a user database of the Internet service provider [col. 5, lines 18-41 and col. 8, lines 23-62].

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As per claims 51 and 94, Parekh et al teach the invention, comprising a database builder for building a database of user client to correlate obtained location data with other data concerning said user clients [fig. 6,50 and fig. 13,80 and 90].

As per claim 95, this limitation includes similar limitations as claims 18, 93 and 94. Therefore, it is rejected with the same rationale.

As per claims 138 and 140, these claims include similar limitations as claims 1 and 44-46 above. Therefore, they are rejected with the same rationale.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 31, 33, 35-41, 79-85, 90-91, 125-129, 133-137 and 142 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parekh et al USPN (6757740) in view of Mashinsky USPN. (6088436).

As per claim 31, 79 and 134, although Parekh et al shows substantial features of the claimed invention as explained in claim 1 above, he does not explicitly show confirming a contact via a telephone number by giving a user an identification for looping using a user client and a connection made using the telephone number.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Parekh et al, as evidenced by Mashinsky USPN. (6088436).

In analogous art, Mashinsky whose invention is about a network of telecommunication nodes using automated callback system, discloses a system confirming a contact via a telephone number (user telephone number is compared to a list of authorized telephone numbers stored in authorized user database) by giving a user an identification for looping (callback) using a user client and a connection made using the telephone number [authorized user database 829, fig. 8 stores the account numbers, passwords, and telephone numbers of individuals

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authorized to access on-line services Col. 19, lines 41 to col. 20, line 66]. Giving the teaching of Mashinsky, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Parekh et al by employing the callback system of Mashinsky in order to minimize the cost of connecting authorized customers to an on-line service [col. 19, lines 25-28].

Mashinsky further teaches a request for a user telephone number [col. 54-65].

As per claim 33, this claim includes similar limitation as claim 31 above therefore it is rejected with the same rationale.

As per claims 35 and 135, Mashinsky teaches the invention, further comprising an authentication unit operable to obtain a modem telephone number of said user client, thereby to attempt to establish contact with said user client [col. 20, lines 1-43].

As per claim 80, this claim has similar limitations as claims 31 and 35. Therefore, it is rejected with the same rationale.

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As per claims 36 and 81, Mashinsky teaches the invention, further comprising an authentication unit contactable by the modem of said user client, thereby to attempt to establish contact with said user client [col. 20, lines 1-43].

As per claim 82, this claim has similar limitations as claim 31. Therefore, it is rejected with the same rationale.

As per claim 37, Mashinsky teaches the invention, further comprising an authentication unit operable to obtain a modem telephone number of said user client and to determine that contact is established with said user client using said given modem number [col. 20, lines 1-43 and col. 21, lines 10-51].

As per claims 38, 39, 83 and 136, Mashinsky teaches the invention, said authentication unit being operable to send authentication information via said connection for return via said network connection [col. 20, lines 1-43 and col. 21, lines 10-51].

As per claims 40, 84 and 137, Mashinsky teaches the invention, said authentication unit being operable to send authentication via said network for return via said direct connection [col. 20, lines 1-43 and col. 21, lines 10-51].

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As per claim 41 and 85, Mashinsky teaches the invention, said authentication unit being operable to send authentication via said network for return via said direct connection [col. 20, lines 1-43 and col. 21, lines 10-51].

As per claim 125, this claim has similar limitations as claims 31 and 35. Therefore, it is rejected with the same rationale.

As per claim 126, Mashinsky teaches the invention, further comprising an authentication unit operable to obtain a modem telephone number of said user client, thereby to attempt to establish contact with said user client [col. 20, lines 1-43].

As per claim 127, Mashinsky teaches the invention, further comprising an authentication unit operable to obtain a modem telephone number of said user client and to determine that contact is established with said user client using said given modem number [col. 20, lines 1-43 and col. 21, lines 10-51].

As per claim 128, Mashinsky teaches the invention, said authentication unit being operable to send authentication via

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said network for return via said direct connection [col. 20, lines 1-43 and col. 21, lines 10-51].

As per claim 129, Mashinsky teaches the invention, said authentication unit being operable to send authentication via said network for return via said direct connection [col. 20, lines 1-43 and col. 21, lines 10-51].

As per claim 133, Mashinsky teaches the invention comprising an interface for interfacing to a telephone number resolving systems, thereby to obtain service level conditions associated with particular telephone numbers [fig. 1 and 6].

As per claim 142, Mashinsky as modified teaches the invention, said digital network access node being a digital line access multiplexer [fig. 1 and fig. 6].

7. Claims 52-54 and 130-132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parekh et al USPN (6757740) in view of Mashinsky USPN. (6088436).

As per claim 52 and 130, although Parekh et al shows substantial features of the claimed invention including obtaining client

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location information and the bandwidth used by the user, he does not explicitly show a line measuring unit for measuring connection line quality.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Parekh et al, as evidenced by Rudinsky et al USPN.

(20020090060).

In analogous art, Rudinsky et al whose invention is about information collection device in a communications networks, disclose a data collection device for measuring connection line quality [¶ 45]. Giving the teaching of Rudinsky et al, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Parekh et al by employing the system of Rudinsky et al because it produces useful data for determining the physical line quality.

As per claims 53 and 131, Rudinsky et al teach the invention where the line measuring unit comprising a connection comparison unit for comparing line qualities of different connections [¶ 10 and 95-98].

As per claims 54 and 132, Rudinsky et al teach the invention qualities being one of a group comprising: signal to noise

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ration, specific frequency attenuation, end path delay, echo characteristics, delay variance, and compression artifacts [¶ 118-119].

Conclusion

8. The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval


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(PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system.

Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

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